



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Case Number: ADR 145

Source: AR 03-08

Case Name: Americans for Sound
Energy Policy

NEGOTIATED SETTLEMENT

This matter was initiated by the Federal Election Commission ("the Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. Following a review of the record and in an effort to promote compliance with the Federal Election Campaign Act of 1971, as amended ("the FECA"), and to resolve this matter, the Commission entered into negotiations with Lisa Lisker, representing the Americans for Sound Energy Policy ("AFSEP") and Gregg Renkes, treasurer (collectively "the Respondents"). It is understood that this agreement will have no precedential value relative to any other matters coming before the Commission.

Negotiations between the Commission and the Respondents have addressed all the issues raised in this matter. The parties have agreed to resolve the matter according to the following terms:

1. The Commission has entered into this agreement as part of its responsibility for administering the Federal Election Campaign Act and in an effort to promote compliance with the FECA on the part of the Respondents. The Commission's use of ADR procedures is authorized in "The Administrative Dispute Resolution Act of 1996", 5 U.S.C. § 572 and is an extension of 2 U.S.C. § 437g.
2. The Respondents have voluntarily entered into this agreement with the Commission.
3. An audit of AFSEP, covering the period from January 1, 1999 through December 31, 2000, disclosed that it accepted prohibited contributions, totaling \$19,302, from ten corporations. The \$19,302 total arose as result of in-kind contributions and payments made for dinners and fund-raising events sponsored by AFSEP. In addition, the audit identified misstatements of receipts and disbursements on AFSEP's disclosure reports for 1999 and 2000.
4. AFSEP accepted six contributions for \$8,000 from incorporated business, three in-kind contributions totaling \$10,302 from corporations and one contribution of \$1,000 made payable to the Friends of Senator Frank Murkowski Committee but deposited inappropriately in the account of AFSEP. The contributions were all made in connection with dinners and events associated with AFSEP's funding-raising activities.
5. Reports originally filed by AFSEP understated the total amount of receipts for calendar year 1999 and 2000 by \$5,527 and \$9,343 respectively and the total amount

of disbursements by \$5,527 and \$6,343 respectively. In addition, reports filed by AFSEP understated ending cash-on-hand for year 2000 by \$3,000. The understatement of receipts and disbursements resulted in large part from Respondents failure to report in-kind contributions as neither receipts nor disbursements.

6. Political committees may not accept or receive contributions made by corporations that are prohibited by 2 U.S.C. § 441b(a) of the Act. 2 U.S.C. § 441b. A contribution includes any gift, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i) and 11 C.F.R. § 100.7(a)(1).
7. A treasurer is responsible for examining all contributions received for evidence of illegality and for ascertaining whether contributions received, when aggregated with other contributions from the same contributor, exceed contribution limits. 11 C.F.R. § 103.3(b). Contributions that present genuine questions as to whether they were made by corporations may be, within ten days of receipt by the treasurer, either deposited in to a campaign depository or returned to the contributor. If the contribution cannot be determined to be legal, the treasurer shall, within thirty days of the treasurer's receipt of the contribution, refund the contribution to the contributor. 11 C.F.R. § 103.3(b)(1). Any contribution which appears to be illegal and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution is determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions or maintain sufficient funds to make all such refunds. 11 C.F.R. § 103.3(b)(4). If a contribution which appears to be illegal or is deposited in a campaign depository, the treasurer shall make and retain a written record noting the basis for the appearance of illegality. A statement noting that the legality of the contribution is in question shall be included in the report noting the receipt of the contribution. 11 C.F.R. § 103.3(b)(5).
8. Treasurers of political committees are responsible for filing reports of receipts and disbursements 2 U.S.C. § 434(a)(1) Each report shall disclose the amount of cash on hand at the beginning of the reporting period, the total amount of all receipts for the reporting period and calendar year and the total amount of all disbursements for the reporting period and the calendar year. 2 U.S.C. 434(b)(1), (2) and (4) and 11 C.F.R. § 104.3(b).
9. In an effort to clarify the record and in response to the Commission's request, Respondents refunded \$10,500, representing a portion of the prohibited contributions, made by seven incorporated businesses and a PAC. Respondents included evidence documenting \$9,000 of the aforementioned refunds. Respondents in reply to the interim audit report also amended, in part, their disclosure reports for the subject period.

10. In order to resolve these issues, the Respondents agree to: 1) work with members of the audit staff to correct and amend disclosure reports for CY 1999 and 2000 previously filed with the Commission incorporating the remaining in-kind contributions; 2) to provide the Commission copies of missing documents, including copies of checks refunding the prohibited contributions, previously requested by the Commission; 3) to file for termination; and 4) to pay a civil penalty of \$4,500.

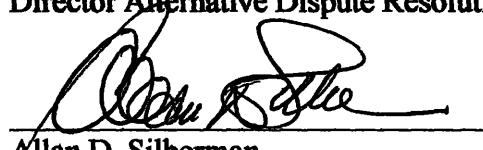
11. The parties agree that if the Respondents fail to comply with the terms of this settlement, the Commission may undertake civil action in the U.S. District Court for the District of Columbia to secure compliance.

12. This agreement will become effective on the date signed by all the parties and approved by the Commission. Respondents shall comply with the terms of this settlement within thirty (30) days of the effective date of the agreement.

13. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 145/AR 03-08 and effectively resolves this matter. No other statement, promise or agreement, either written or oral, made by either party, not included in herein, shall be enforceable.

FOR THE COMMISSION:

Allan D. Silberman,
Director Alternative Dispute Resolution Office



Allan D. Silberman

3-5-04
Date

FOR THE RESPONDENTS:



Ms. Lisa Lisker, representing
Americans for Sound Energy Policy

2-13-04
Date